

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROLAND S. MOORE

Appeal No. 96-0487
Application 07/976,610¹

ON BRIEF

MAILED

SEP 19 1996

PAT. & TM. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before McCANDLISH, Senior Administrative Patent Judge, and
LYDDANE and FRANKFORT, Administrative Patent Judges.

McCANDLISH, Senior Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's rejection of claims 1 through 10, 12 and 13 under 35 U.S.C.

§ 103. No other claims are pending in the application.²

¹ Application for patent filed November 16, 1992.

² Claim 11 was canceled in the amendment filed September 15, 1993. Claim 12 was amended to depend from claim 10 in the amendatory paper filed May 20, 1994 prior to the filing of appellant's brief. The amendatory paper which accompanied
(continued...)

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A copy of the appealed independent claims (i.e., claims 1³ and 10), as these claims appear in the appendix to appellant's brief, is appended to this decision.

Appellant's invention as defined in claim 1 relates to a latch locking spring clip for retaining a brake shoe on a brake head of a disc brake unit. According to claim 1, the spring clip comprises a first straight leg portion (17) extending from one end of a coiled portion (16). This leg portion is recited to be insertable into a hole in a lug on the brake head. The spring clip also is recited to comprise a reversed turned portion extending from the other end of the coiled portion and having a final section (20) which terminates in a second straight leg portion (21) for insertion into a hole in another lug on the brake head.

Claim 10 does not include all of the limitations of claim 1. However, in contrast to claim 1, it recites that a straight leg

(...continued)
appellant's brief is merely a copy of the amendment filed May 20, 1994 and therefore does not appear to deserve any further consideration.

³ There is no proper antecedent basis for the recitation of "said crossbar" in the last line of claim 1. However, consistent with appellant's specification, we have interpreted the crossbar to refer back to one of the two lugs recited in line 10 of the claim. Although this informality does not obscure the metes and bounds of the claimed subject matter, it is nevertheless deserving of correction in the event of further prosecution before the examiner.

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portion (17) extending from a loop portion (16) of the retaining clasp is offset by approximately 20 degrees from the other end portion of the clasp when the clasp is in an open position.

In rejecting the appealed claims, the examiner relies upon the following reference:

Netherlands publication⁴ 285,227 Jan. 25, 1965

Claims 1 through 10, 12 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Netherlands publication alone. In support of this rejection, the examiner relies on the embodiment shown in Figure 12 of the Netherlands reference, stating as follows with apparent regard to claim 1:

Note the latch locking spring clip in Fig. 12 of the Netherlands publication which includes: coiled bight portion 20, first straight leg 22, reversed turned portion 19 which forms an initial straight section, intermediate loop portion 18, and final straight portion 17 terminating in second straight leg 14.

The claimed invention differs only in the intended use as a locking pin for a brake shoe.

It would have been obvious to one of ordinary skill in the art to have utilized the pin of NL 285227 as a locking pin for a brake shoe since safety pin type connectors are well known as connections for brake shoes. [Answer, page 3]

With regard to claims 6 and 10, the examiner dismisses the claimed 20 degree offset as follows:

[s]afety pin connectors are generally open at about 20 degrees. Such a teaching would have been obvious to

⁴ A translation of this reference is appended to this decision.

one of ordinary skill in the art since it is a standard in the art. [Answer, page 3]

We have carefully considered the issues raised in this appeal together with the examiner's remarks and appellant's arguments. As a result, we conclude that we cannot sustain the rejection of the appealed claims. Our reasons for this conclusion follow.

Considering first the rejection of claim 1, the retainer shown in Figure 12 of the Netherlands reference admittedly terminates at opposite ends in straight leg portions 2 and 22 which are adapted to be inserted into a transverse bore in a bolt member. However, neither of these leg portions is readable on the appellant's first straight leg portion because neither of the leg portions in Figure 12 of the Netherlands reference extends from one end of a coiled bight portion as defined in claim 1.

Instead, in the Netherlands reference, a straight intermediate portion 17 lies between the leg portion 2 and one coiled portion 18, and another intermediate straight portion 21 lies between the leg portion 22 and another coiled portion 20 of the Netherlands retainer. The intermediate portion 17 cannot be considered as being a part of the leg portion 2 because it is bent at a 90 degree angle with respect to the leg portion. Accordingly, the combination of the intermediate portion 17 and the leg portion 2 is not readable on appellant's first leg

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portion because the first leg portion is recited to be straight in claim 1. For the same reason, the combination of the intermediate portion 21 and the leg portion 22 of the Netherlands retainer is not readable on appellant's first straight leg portion because the intermediate portion 21 is bent at a 90 degree angle with respect to the leg portion 22.

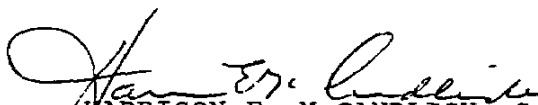
Absent a teaching or suggestion of the limitation pertaining to appellant's first straight leg portion, the § 103 rejection of claim 1 and claims 2 through 9, which depend directly or indirectly from claim 1, must fail for lack of a sufficient factual basis. See *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967). (Cert. denied, 389 U.S. 1057 (1968)).

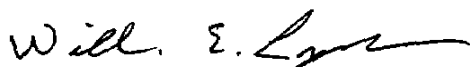
We also cannot agree with the examiner's conclusion of obviousness regarding the subject matter of claim 10 and, hence, of claims 12 and 13 which depend from claim 10. Even assuming the correctness of the examiner's finding that safety pins "are generally open at about 20 degrees," we find nothing in the disparate teaching of a conventional safety pin that would have suggested a 20 degree offset of the straight end portions of the Netherlands retainer clip in the environment of retaining a bolt in place on a structure.

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The examiner's decision rejecting claims 1 through 10, 12
and 13 is therefore reversed.

REVERSED


HARRISON E. MCCANDLISH, Senior)
Administrative Patent Judge)


WILLIAM E. LYDDANE)
Administrative Patent Judge)


CHARLES E. FRANKFORT)
Administrative Patent Judge)

BOARD OF PATENT

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APPENDIX

Claim 1. A latch locking spring clip for securely retaining a brake shoe on a brake head of a disc brake unit comprising, a coiled bight portion, a first straight leg portion extending from one end of said coiled bight portion, a reversed turned portion extending from the other end of said coiled bight portion, said reversed turned portion including an initial straight section, an intermediate loop portion, and a final straight section terminating in a second straight leg portion, said first straight leg portion inserted into a hole formed in one of two lugs carried by the brake head and into an aligned hole formed in a latch member, and said second straight leg portion inserted into a hole formed in another of the two lugs carried by the brake head by grasping said intermediate loop portion to slightly open the final straight section, and allow the tip of said second straight leg portion to clear the top surface of said crossbar.

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10. A wire retaining clasp comprising, a loop portion, a straight leg portion extending from one end of said loop portion, a hook-shaped portion extending from the other end of said loop portion, said hook-shaped portion including a first straight section leading to a curved section which exits into a second straight section that is bent substantially ninety degrees to form an end portion which is substantially parallel to said first straight section when the wire retaining clasp is in a closed position, and wherein said straight leg portion is offset from said end portion by approximately twenty degrees when the wire retaining clasp is in an open position, and wherein said end portion and said first straight portion are frictionally held in place.